

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

ICON AMAZING, LLC

VERSUS

AMAZING SHIPPING LTD.,  
GEDEN HOLDINGS, LTD.

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C.A. NO. 4:13-CV-01449

**DEFENDANTS' OPPOSED MOTION FOR EXPEDITED, EMERGENCY  
HEARING OF DEFENDANTS' MOTION TO VACATE ATTACHMENT  
AND DISMISS COMPLAINT**

NOW COME Defendants, Amazing Shipping Ltd. ("Amazing") and Geden Holdings, Ltd. ("Geden"), without waiving any defenses, especially as to personal and subject matter jurisdiction and venue, and not making a general appearance, and respectfully request expedited, emergency hearing of Defendants' companion Opposed Motion to Vacate Attachment and Dismiss Complaint for the reasons set forth below.

On May 24, 2013 Plaintiff Icon Amazing LLC ("Icon") wrongfully attached M/T HERO pursuant to Rule B of the Special Admiralty Rules.

As set forth in Defendants' companion Opposed Motion to Vacate Attachment and Dismiss Complaint, Rule B attachment was improper because the underlying dispute concerns sale of a vessel – M/V AMAZING – and it is well-settled that vessel sale/finance transactions are not admiralty and maritime contracts, thus Special Admiralty Rule remedies like Rule B attachment and Rule C arrest are unavailable to Plaintiff.<sup>1</sup>

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<sup>1</sup> *Clem Perrin Marine Towing, Inc. v. Panama Canal Co.*, 230 F.2d 186, 188-189 (5th Cir. 1984); *S.C. Loveland, Inc. v. East West Towing, Inc.*, 608 F.2d 160, 164; 1980 AMC 2947 (5th Cir. 1979); *Parcel Tankers Inc. v. M/T*

Wrongfully attached M/T HERO presently is at anchor, under attachment, unable to depart the Port of Houston/Galveston and thus unable to earn revenue. Her present losses are at least \$10,000 per day, and she has been under attachment since May 24, 2013, about ten (10) days ago.

Defendants cannot nor should they provide Letter of Undertaking ("LOU") security or any other security or funds to obtain the release of the wrongfully attached M/T HERO.

M/T HERO interests are suffering and will continue to suffer irreparable harm if the attached Opposed Motion to Vacate and Dismiss Complaint is not heard at the Court's earliest availability. Because of the severity of the ongoing harm, Defendants would respectfully ask that the Court address the merits of Defendants' Opposed Motion to Vacate Attachment and Dismiss Complaint within the next three calendar days.

Respectfully submitted,

*s/ Marc G. Matthews*

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**ATTORNEY-IN-CHARGE FOR  
DEFENDANTS, AMAZING SHIPPING  
LTD., GEDEN HOLDINGS, LTD.**

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*STOLT LUISA PANDO*, 1990 WL 257638 at \*1; 1990 AMC 2934 (E.D.La. 1990); *All Car Leasing Service Co. v. Campbell*, 912 F.2d 468, 1990 WL 125337, \*1 - \*2 (9th Cir. 1990); *Cary Marine, Inc. v. Motorvessel Papillon*, 872 F.2d 751, 755-756 (6th Cir. 1989); See also *T. Schoenbaum, Admiralty and Maritime Law* at § 3-10, p. 127 (contract for sale of a vessel is not within Admiralty jurisdiction), § 21-22, p. 507 (admiralty jurisdiction is prerequisite for Rule B attachment).

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**CERTIFICATE OF CONFERENCE**

I certify that counsel for movant has conferred with counsel for respondent regarding the contents of this motion. Counsel for respondent is opposed. Counsel cannot agree about the disposition of this motion.

*s/ Marc G. Matthews*

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Marc G. Matthews

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was electronically filed with the Clerk, with a copy served electronically by the Clerk or by the undersigned via certified mail, return receipt requested, on this the 4<sup>th</sup> day of June, 2013 upon all counsel of record.

*s/ Marc G. Matthews*

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Marc G. Matthews